

PCT

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## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)



REC'D PCT/10 20 MAY 2005

Applicant's or agent's file reference BCS 02-4006	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/EP 03/14892	International filing date (day/month/year) 18.11.2003	Priority date (day/month/year) 20.11.2002
International Patent Classification (IPC) or both national classification and IPC C07D213/61		
Applicant BAYER CROPSOURCE S.A. et al		

1. This International preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.
- ☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).
- These annexes consist of a total of sheets.

## 3. This report contains indications relating to the following items:

- I ☒ Basis of the opinion
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand  11.06.2004	Date of completion of this report  07.03.2005
Name and mailing address of the international preliminary examining authority:   European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer  Bosma, P  Telephone No. +31 70 340-3665 

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**

International application No. **PCT/EP 03/14892**

**I. Basis of the report**

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

**Description, Pages**

1-4 as originally filed

**Claims, Numbers**

1-12 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).  
☐ the language of publication of the international application (under Rule 48.3(b)).  
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.  
☐ filed together with the international application in computer readable form.  
☐ furnished subsequently to this Authority in written form.  
☐ furnished subsequently to this Authority in computer readable form.  
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.  
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:  
☐ the claims, Nos.:  
☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

*(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)*

6. Additional observations, if necessary:

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**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Yes: Claims	1-12
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-12
Industrial applicability (IA)	Yes: Claims	1-12
	No: Claims	

**2. Citations and explanations**

**see separate sheet**

**Re Item V**

**Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

Reference is made to the following documents:

- D1: WO 02/16322 A (AVENTIS CROPS SCIENCE SA ;AMIN MEHUL RASIKCHANDRA (GB); RIORDAN PETE) 28 February 2002 (2002-02-28)  
D2: PATENT ABSTRACTS OF JAPAN vol. 1998, no. 09, 31 July 1998 (1998-07-31) & JP 10 101646 A (NIPPON FINE CHEM CO LTD;MITSUBISHI CHEM CORP), 21 April 1998 (1998-04-21)  
D3: EP-A-0 409 716 (RHONE POULENC CHIMIE) 23 January 1991 (1991-01-23)

1) The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1-12 does not involve an inventive step in the sense of Article 33(3) PCT:

D1, which is considered to be the closest prior art document and has been acknowledged in the present application, already discloses a process for the preparation of 2-aminomethylpyridines of the general formula (I) by hydrogenation of a 2-cyanopyridine derivative (II).

Although **acetic acid** is not used in D1, the use of a strong acid is preferred (see page 4, lines 18-21). The catalyst of D1 comprises a metal selected from palladium, ruthenium, **nickel** and cobalt. The use of Raney nickel catalysts in related processes is known from D2 and is also mentioned in the present description in association with EP-A-0409716 (D3).

For the skilled man the present process according to claims 1-12 is obvious from the teachings of D1 and D2 (or D3).

Therefore it seems necessary for the assessment of inventive step for the above indicated subject-matter to have evidence for the presence of unexpected effects or properties in relation to those described in the state of the art.

The present 2-aminomethylpyridines are useful as intermediates for the preparation of pesticides.

2) The applicant's attention is drawn to the fact that, as a consequence of Rule 66.8(a) PCT the examiner is not permitted to carry out any amendments under the PCT proce-

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dure, however minor these may be.